IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 4872 OF 2007

Sakhubai Pandu @ Pandurang
Kokare @ Dhangar (deceased)
through L.Rs. and ors. .... Petitioner

versus

Aabdul Banya Kokare @ Dhankar
(deceased) through L.Rs. & ors..... Respondent.

Shri B.G. Tangsali for the petitioner.

CORAM; A.P. DESHPANDE, J.
DATED; 23RD OCTOBER, 2007

P.C.;

1. The plaintiff instituted a suit for partition against the present petitioners. There were 19 defendants. No one filed written statement. The suit came to be decreed without any contest after the court passed an order of "no W.S." After a lapse of more than three years an appeal along with an application for condonation of delay in filing of the appeal came to be filed before the District Judge, Ratnagiri. In support of the case of the appellants, a medical certificate issued by a psychiatrist was filed which mentions that the power of attorney holder of the present petitioners was suffering from mental ailment from the year 1999 to 2003. The doctor was not

examined. The First Appellate Court has observed that the suit is of the year 1995 and no w.s. order was passed on 9-7-1997, i.e. before the alleged ailment of the power of attorney holder. Taking over all view of the matter, the First Appellate Court has held that no sufficient cause is shown by the appellant for condonation of delay.

2. Perused the order. The same goes to take a possible view of the matter, and does not call for any interference in exercise of writ jurisdiction. Hence writ petition is summarily dismissed.

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